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SUPREME COURT, U. S.

In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 851

PACIFIC SCIENTIFIC COMPANY,
Petitioner,

vs.

AEROTEC INDUSTRIES OF CALIFORNIA, AEROTEC INDUSTRIES, INC. and UNIVERSAL OIL PRODUCTS COMPANY,
Respondents.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE
and
BRIEF OF THE STRATEGIC INDUSTRIES ASSOCIATION AS AMICUS CURIAE IN SUPPORT OF PETITION FOR CERTIORARI

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PERNAU-WALSH PRINTING CO., SAN FRANCISCO

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MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

The Strategic Industries Association respectfully moves this Court for leave to file the accompanying brief as amicus curiae in support of the petition for a writ of certiorari in this case. The consent of the attorney for the petitioner has been obtained, as shown by his letter filed concurrently herewith, but the attorneys for the respondents herein refused to consent to the filing of a brief by the Strategic Industries Association as amicus curiae.

The interest of the applicant, the Strategic Industries Association, in having certiorari granted is as follows:

The applicant seeks to assist its more than 80 members, who are small business companies engaged primarily in the manufacture of proprietary technical equipment, in matters in which all have a generally common interest. As the accompanying brief shows, the Strategic Industries whom the applicant represents are vitally interested in the validity and scope of the patents which they obtain, and in the protection of their economic interests therein. The purpose of the accompanying brief is to represent to this Court the widespread extent of this interest and the importance of a clear resolution of the questions presented by the petition for a writ of certiorari herein, and to urge the granting of a writ of certiorari to that end.

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BRIEF OF THE STRATEGIC INDUSTRIES ASSOCIATION AS AMICUS CURIAE IN SUPPORT OF PETITION FOR CERTIORARI

The Strategic Industries Association files this brief as amicus curiae pursuant to Rule 42(1).

The Strategic Industries Association, 10889 Wilshire Boulevard, Los Angeles, California is a group of over 80 small business companies engaged primarily in the manufacture of proprietary technical equipment. These companies have a vital and continuing interest in the administration of the United States Patent Laws; in particular, the Association and its members are cognizant of widespread and commercial interest in the basic legal

issue expressed in the QUESTIONS PRESENTED in the Petition for Writ of Certiorari. Petitioner Pacific Scientific Company is a member of Strategic Industries Association; however, the Association takes no position with respect to the validity or invalidity of U.S. Patents 2,845,233 and 2,845,234.

ARGUMENT

It is believed necessary that the Supreme Court grant certiorari and decide the basic legal issue referred to, in order that the "unobviousness" test for invention under 35 USC 103 may be less uncertain in its factual and legal application, particularly with respect to the question as to what is and what is not prior art to be considered as pertinent in applying the Statute. If this Question is left undecided, inventors may well resolve any doubts in their minds by seeking to obtain patents which, if obtained, will be of uncertain validity and which may lead to unnecessary, profuse and expensive litigation to the detriment of small business.

CONCLUSION

For the foregoing reasons, the Strategic Industries Association respectfully urges that the petition for certiorari be granted.

Respectfully submitted,

Louis J. Bachand, Jr.,

Counsel for the Strategic Industries Association.